

Art Unit 3749

The Examiner has neglected to make any reference to the arguments posed by Applicant in response to the first Office action, which detailed and proved that Examiner's objections as to double-patenting were mistaken and should therefore have been withdrawn.

Applicant respectfully disagrees and is of the opinion that the Examiner was in error when citing prior US Patent No: 6,736,118 as a reason for rejection under 35 U.S.C. 101, double patenting, in said first Office action.

Examiner should have considered the correct status of this Application, which is a Divisional of Patent 6,736,118, or its related Application 10,293,357, and is properly identified as such on page 1 of the subject Application, below the Title.

35 U.S.C. 121 DIVISIONAL APPLICATION provides the following rule.

*If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title, it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such requirement, shall not be used as reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.*

Art Unit 3749

As the filing date of the subject application precedes the issuance date of Patent 6,736,118, and as the divisional application 10/798,292, class 431, was filed in accordance with the instructions by the Director, Applicant is of the opinion that the Examiner is therefore in error when citing US Application 6,735,118 as an objection.

When referencing the Office file of US Patent 6,736,118, the Examiner will find the Director's request for a division of invention, under which Applicant has filed the subject divisional application and has suitably identified it as to said relationship.

With regard to the filing date of application 10/798,292, class 431, which is indicated by the Examiner as 03/12/04, Applicant respectfully draws attention to the 35 U.S.C. 120 rule, which states that a divisional application shall be entitled to the filing date of the parent application, such filing date being November 14, 2002.

Applicant is of the opinion to have herewith responded to the first Office Action as required, and the Examiner should therefore make proper and all-inclusive reference to such response.

With regard to the second and final Office action, Applicant will provide the necessary arguments and reasoning to demonstrate that the Examiner has committed a large number of errors when citing the objections and the rejections, and that the Examiner has not provided due consideration in accordance with established and accepted Office practice.

Art Unit 3749

## **2. *Applicant's Premier Objection***

The before stated reasoning, as well as the flawed and erroneous content of this second Office Action being responded to herewith according to MPEP 706.07(c), provides grounds for Applicant to respectfully object to such finality designation, finding it premature and unsubstantiated, and Applicant therefore respectfully requests re-consideration by the Examiner to reverse such "Final Action" to "Non Final Action" status. Should the Examiner disagree, Applicant herewith takes the necessary steps by way of Request For Continued Examination RCE to the Commissioner, requesting a full review and reconsideration of the process of examination of this application and all other pertinent factors relative thereto.

## **3. *Information Disclosure Statement***

The Examiner states the following objections:

*The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP paragraph 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper". Therefore, unless the references have been cited by the Examiner on form PTO-892, they have not been considered.*

It appears that this Examiner, in accordance with Office practice, is making use of the identical wording, phrases and expressions contained in a similar argument regarding a further Division Application presently under examination, which reads as follows:

Art Unit 3749

*The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP paragraph 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper". Therefore, unless the references have been cited by the Examiner on form PTO-892, they have not been considered.*

Applicant will therefore repeat the identical reasoning used to overcome the stated argument as included in the response related to application 10/798,294, class 60, and provide arguments to identify Examiner's error.

The Examiner indicates that Applicant has incorrectly incorporated an information disclosure reference in the description of the invention. Applicant disagrees with the Examiner and directs the Examiner to the description of the Parent Application 10/293,357, now issued as Patent 6,736,118, wherein similar disclosures were included and accepted by the Commissioner as proper "Background" information to the disclosure.

It was the intent of Applicant to cite such reference in order to provide available general pertinent details to the "Background" of the disclosure. In accordance with MPEP paragraph 608.1 (c), such detailed reference is therefore included in the "Background" portion of the application in support of the feasibility of the method and device disclosed in the "Summary" of the application.

Art Unit 3749

Applicant is of the opinion to have shown the Examiner to be in error and respectfully requests the Examiner's re-consideration as to the pertinence of the details disclosed.

#### **4. Drawings**

The Examiner states the following objection, which are copied in accordance with Office practice, from an objection to application 10/798,294, class 60. In fact, the objection is in cross-reference to said application and reads as follows:

*The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the insulating material forming part of the heat exchanger assembly and the heat storage material being formed as part of the heat exchanger assemblies (claims 28 and 40) and the heat transfer zones being operated form a source other than the combustion or exhaust vent area of the combustion mechanism (claims 31 and 43) must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.*

*Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheets should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be cancelled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be*

Art Unit 3749

*necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.*

It appears that this Examiner has accepted such faulty conclusions, just like the Examiner reviewing the Divisional 294, class 60, application, the details of which read as follows:

*The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the insulating material forming part of the heat exchanger assembly and the heat storage material being formed as part of the heat exchanger assemblies (claims 24 and 35) and the heat transfer zones being operated form a source other than the combustion or exhaust vent area of the combustion mechanism (claims 27 and 38) must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.*

*Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheets should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be cancelled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be*

Art Unit 3749

*renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.*

It is apparent that the Examiner is also unable to recognize that error in the objection as presented.

Applicant therefore provides the identical arguments and reasoning to prove such error, and cites the following pertinent information:

The Examiner objects to the drawings under 37 CFR 1.83 (a), as not showing every feature of the invention specified in the Claims

The Examiner states that the insulating material cited in Claims 28 and 40 is not being shown, when indeed such insulating material, or heat storage material, is indicated in the drawings as the hatch drawn feature surrounding the heat exchanger assembly 6, located at exhaust area 10, as well as the hatch drawn feature surrounding heat exchanger 7 which, as very obvious in the drawing, is located at a heat transfer zone being operated by a source other than the combustion or exhaust

Art Unit 3749

gas vent area of the combustion mechanism, all in accordance with Claims 31 and 43. Applicant is thereby in full compliance with the regulations.

The Examiner is therefore mistaken when objecting to the drawings, because the drawings already conform with 37 CFR 1.83(a). The drawings in fact precisely show the required features of the inventions as referred to in the objected Claims, and no alteration, amendment or addition to the drawings should be required.

### **5.     *Specification***

The Examiner cites the following:

*The disclosure is objected to because of the following informalities:*

*On page 1, line 5 from the bottom the term "power" is misspelled.*

*On page 4, line 2, "affective" should be spelled "effective".*

*Appropriate correction is required.*

In order to simplify the examination process, it is usually normal practice for the Examiner to make minor typing corrections of the kind cited herein. However, for whatever reason, this does not seem to be appropriate in this case.

The form and wording of the request for corrections is again identical word for word to the request in the 294, class 60, examination, wherein the Examiner also ignores, or does not recognize, the spelling error appearing on the Title Page of the application. Said identical requests reads as follows:

Art Unit 3749

*The disclosure is objected to because of the following informalities: On page 1, line 5 from the bottom the term "power" is misspelled. On page 4, line 2, "affective" should be spelled "effective". Appropriate correction is required.*

Applicant therefore again responds with a more or less identical answer:

The Examiner objects to the disclosure because of certain formalities.

Applicant will again make the corrections as indicated and requested by the Examiner, although Applicant is of the opinion that Examiner could have provided a more accommodating remedy. In addition, Applicant will make the necessary correction in the Title of the Invention on the cover page of the application, the misspelling of the word "HYDRO CARBON", which the Examiner failed to recognise, and which should be changed to read "HYDROCARBON" instead.

## **6. Claim Rejections - 35 USC paragraph 112**

The Examiner further cites a number of erroneous objections, again identical to the erroneous objections cited in the 294, class 60, Office action, which are described by this Examiner as follows:

*"The following is a quotation of the first paragraph of 35 U.S.C. 112:*

*This specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.*

Art Unit 3749

*Claims 27 - 48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See MPEP paragraph 2163.06.*

*The original disclosure does not provide support for an optimal air operating temperature level of between plus 50 and minus 25 degrees Fahrenheit (claims 27 and 39), the range of at least one of said heat transfer zones being related to the exhaust gas vent area of the combustion mechanism (claims 29 and 41), the range of at least one of said heat transfer zones being related to the combustion area of the combustion mechanism (claims 30 and 42), said heat transfer zones being operated from a source other than the combustion or exhaust gas vent area of the combustion mechanism (claim 31 and 43), the fuel being a suspended coal dust or coal dust slurry (claim 37), an insulating material being used to balance any temperature fluctuations occurring in the heat transfer zones (claim 40), and the means for the combustion mechanism to convert an oxidation mixture of fuel and air into high temperature, high velocity combustion products to operate a related energy transfer system (claim 46).*

*In regards to claims 31 and 43, independent claims 27 and 39 from which they depend require that the first heat transfer zone be related to the combustion mechanism. Claim 31 and 43 require the heat transfer zones to operate from a source other than the combustion or exhaust gas area of the combustion mechanism. The original disclosure does not provide support for a heat transfer zone related to*

Art Unit 3749

*the combustion mechanism but not for the combustion or exhaust gas area of the combustion mechanism*

Following is the identical citation by the previous Examiner in the review of the 294, class 60, application:

*Claim Rejections - 35 USC paragraph 112*

*"The following is a quotation of the first paragraph of 35 U.S.C. 112:*

*This specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.*

*Claims 23 - 43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See MPEP paragraph 2163.06. (even the word SEE is underlined in both versions)*

*The original disclosure does not provide support for an optimal air operating temperature level of between plus 50 and minus 25 degrees Fahrenheit (claims 23 and 34), the range of at least one of said heat transfer zones being related to the exhaust gas vent area of the combustion mechanism (claims 25 and 36), the range of at least one of said heat transfer zones being related to the combustion area of the combustion mechanism (claims 26 and 37), said heat transfer zones being operated from a source other than the combustion or exhaust gas vent area of the combustion*

Art Unit 3749

*mechanism (claim 27 and 38), the fuel being a suspended coal dust or coal dust slurry (claim 32), an insulating material material being used to balance any temperature fluctuations occurring in the heat transfer zones (claim 35), and the means for the combustion mechanism to convert an oxidation mixture of fuel and air into high temperature, high velocity combustion products to operate a related (turbine) system (claim 41).*

*In regards to claims 27 and 38, independent claims 23 and 33 from which they depend require that the first heat transfer zone be related to the combustion mechanism. Claim 27 and 38 require the heat transfer zones to operate from a source other than the combustion or exhaust gas area of the combustion mechanism. The original disclosure does not provide support for a heat transfer zone related to the combustion mechanism but not for the combustion or exhaust gas area of the combustion mechanism*

Applicant must point out to the Examiner that specifically such heat source other than the combustion or exhaust gas area is fully described, both in this application as well as in application 294, class 60. Please refer to page 5 of the disclosure, where is described the alternative as follows:

*Where access to any of such heat source locations is difficult (combustion zone or gas vent area), a heating zone may employ heat from a heat source unrelated to the combustion mechanism.*

Applicant therefore poses herewith the identical arguments as in the 294, class 60, examination, proving that the Examiner is in error with each one of his objections cited in this portion of his examination.

Art Unit: 3749

*Re: Claim Rejections - 35 USC paragraph 112*

The Examiner is rejecting Claims 27 to 48 as failing to comply with the written description requirement, stating that the specification does not provide the necessary disclosures to support the details in some of the Claims. The Examiner is also of the opinion that Applicant, as explained in MPEP 2163.06, was not in possession of the claimed invention such as to be reasonably able to convey the subject matter disclosed in the specification to one skilled in the art.

It appears that the Examiner is not aware of the fact that the application herein under examination is a Divisional Application of a Patent already issued, a Parent Patent which discloses more or less identical amount of details and description of the invention and group of Claims, and that a reference to MPEP 2163.06 under such circumstance, and the Examiner stating that Applicant may not be in possession of the invention, is therefore inappropriate and totally unfounded.

The Examiner is incorrect, and Applicant herebelow provides the necessary supportive arguments on a Claim by Claim basis.

**a) Claims 27 and 39, combustion air operating temperature:**

The Examiner claims that no support is provided in the disclosure for an optimal air operating temperature level of between plus 50 and minus 25 degrees Fahrenheit.

Applicant however provides a description of the process of cooling the combustion air in a heat exchange relationship with low temperature fluid hydrocarbon fuel. On page 1 of the disclosure, last paragraph, Applicant describes

Art Unit: 3749

the known in the art process as one alternative means for cooling intake air, by using the low temperature of LNG Liquid Natural Gas, should the mechanism be operated with that type of fluid fuel, which, as anyone skilled in the relevant art would know, may be at a temperature as low as minus 260 degrees Fahrenheit. Such low fuel temperature easily facilitates a temperature exchange from such fuel to intake air from an ambient temperature (90 degrees F in summer time) to a level of between 50 degrees and minus 25 degrees Fahrenheit, when used in a temperature transfer relationship with the air. Such range is just a narration of the full range available.

On page 2, first paragraph of the disclosure, Applicant further describes the employment of special evaporative air coolers to effectively cool combustion air to increase the operating efficiency of a combustion mechanism as contemplated in his method Claims and device Claims.

In addition, Applicant is illustrating in Fig. 1 of the drawings, how and where the cool fuel 1 passes through the zone at heat exchanger assembly 7, before being routed through fuel heating exchange assembly 6, in order to first cool combustion air 9 prior to its delivery to the combustion zone 3. The Examiner should refer to page 8 of the description, under "Detailed Description of a Preferred Embodiment", where under Figure 1, the various relative steps of the invention are fully explained and detailed. Furthermore, on page 2 last paragraph, Applicant specifies the need to provide the lowest possible combustion air temperature in order to obtain the most advantageous operating condition.

Therefore, when referencing Claims 27 and 48 as being unsubstantiated, the Examiner has copied a mistake without challenge or confirmation.

Art Unit: 3749

Applicant, in accordance with 35 USC paragraph 112, has sufficiently concluded with Claims 27 and 48 and is particularly pointing out and distinctly claiming the subject matter which Applicant regards as said particular part of the invention, in a manner reasonably conveying its relevance to one skilled in the art.

However, persons not skilled in the art may have problems recognising the relevancy.

Applicant suggests for the Examiner to visit US Patent 6,736,118, which is the parent Patent to which this Divisional relates, and review the precedent. In fact, in such Parent Patent the claimed air cooling temperature range is even larger, between ambient and minus 40 degrees Fahrenheit.

**b) Claims 29 and 41, a heat transfer zone related to the exhaust gas vent area of the combustion mechanism:**

The Examiner claims that no support is provided in the disclosure for the operation of at least one of said heat transfer zones related to the exhaust gas vent area of the combustion mechanism.

The Examiner is again in error when citing Claims 29 and 41 as not being supported in the description of the invention.

Applicant obviously provides a description of the location of the heating zone at the exhaust area of the combustion mechanism. Starting on page 4 of the disclosure, last paragraph, Applicant begins to describe the zone of heat source related to the combustion mechanism's exhaust area, which, as anyone skilled in the

Art Unit: 3749

Relevant art would know, may exhaust flue gas products, or oxidation products, at a temperature as high as 1000 degrees Fahrenheit. Such high flue gas temperature easily facilitates a temperature exchange to a fuel such as fluid hydrocarbons from an ambient temperature (90 degrees F in summer time) to a level of between 50 degrees and 900 degrees Fahrenheit, when used in a temperature transfer relationship.

In addition, Applicant is illustrating in Fig. 1 of the drawings, how and where the heat transfer zone in question is located at the combustion mechanism's combustion product exhaust area 10, which, as is well known to someone familiar with the art, is always related to the energy transfer zone 5 of a combustion mechanism. The Examiner should again refer to page 8 of the description, under "Detailed Description of a Preferred Embodiment", where under Figure 1, the various relative steps of the invention and the locations of the heating zones relative to the exhaust area of the combustion mechanism are fully explained and detailed.

Therefore, when referencing Claims 29 and 41 as being unsubstantiated, the Examiner is again mistaken.

**c) Claims 30 and 42, a range of at least one heat transfer zone related to the combustion area of the combustion mechanism:**

The Examiner claims that no support is provided in the disclosure for the operation of at least one of said heat transfer zones related to the combustion area of the combustion mechanism.

Art Unit: 3749

The Examiner is in error when citing Claims 30 and 42 as not being supported in the description of the invention.

Applicant does provide a description of the location of the heating zone at the combustion area of the combustion mechanism. On page 5 of the disclosure, first paragraph, Applicant describes the zone of heat source related to the combustion mechanism's combustion area or a heating zone located in the interior of the mechanism, identified in Figure 2 as location 3, which, as anyone skilled in the relevant art would know, may produce combustion products at a temperature as high as or higher than 1300 degrees Fahrenheit. Such high combustion product temperature easily facilitates a temperature exchange to a fluid, such as a fluid hydrocarbon fuel, from an ambient fuel temperature (90 degrees F in summer time) to a level of between 50 degrees and 900 degrees Fahrenheit, when used in an efficient heat transfer relationship.

Applicant is illustrating in Fig. 2 of the drawings, that the heat transfer zone in question is located near the combustion mechanism's interior combustion area 3 and is identified as area 6, which, as is well known to someone familiar with the art, is the first energy transfer zone of a combustion mechanism, experiencing further high temperatures. The Examiner should again refer to page 8 of the description, under "Detailed Description of a Preferred Embodiment", where under Figure 2, the various relative steps of the invention and the location of the heating zone relative to the combustion area of the combustion mechanism a is fully explained and detailed.

The Examiner should also realise that both the high temperature combustion products or combustion exhaust vent products of a combustion mechanism may also

Art Unit: 3749

be employed as efficient means to operate an air cooling or refrigeration systems by way of thermochemical compression rather than mechanical compression.

The Examiner may want to refer to:

A Brief Primer on Natural Gas Air Conditioning Technologies

There are three basic types of natural gas air conditioning systems:

1. absorption cycle,
2. engine-driven,
3. desiccant systems.

In Southern California, the **absorption cycle** is the most popular natural gas air conditioning system and is similar to electrical systems in that it utilizes a cycle of evaporation and condensation of a fluid or refrigerant to produce cooling.

However, such absorption cycle cooling differs from the vapour compression cycle by using heat as a **“thermochemical compressor” rather than a mechanically-driven compressor**. The source of energy for compression can be from the heat (or waste-heat) from a combustion turbine system fired with gas, oil or coal products, or from a steam or hot water operated dual cycle systems.

Therefore, when referencing Claims 30 and 42 as being unsubstantiated, the Examiner is again in error and copying the same mistake posed by the Examiner of application 294, class 60.

Art Unit: 3749

Applicant however agrees that a person not skilled in the art may have problems recognising the relevancy of that segment of the disclosure. Hence the difference between a person who recognises an unusual circumstance (the Inventor of an invention), and a person trying to understand the principle thereof.

**d) Claims 31 and 43, a heat transfer zone related to a zone other than the exhaust gas vent area of the combustion mechanism:**

The Examiner claims that no support is provided in the disclosure for the operation of an alternative heat transfer zone other than the combustion or exhaust gas vent areas of the combustion mechanism.

The Examiner is again continuing to make the same obvious error as previously when citing Claims 31 and 43 as not being supported in the description of the invention.

Applicant unmistakably provides an ample description of one obvious location of such an alternative heat transfer zone at said combustion mechanism when describing and illustrating the heat transfer zone located at the air intake location. Furthermore, on page 5 of the disclosure, first paragraph, Applicant purposely indicates that, when access of a heating zone related to the combustion mechanism is not readily available, a heating zone may be employed using heat or energy transfer means from any other operating source known in the art, which may be unrelated to the combustion mechanism.

Art Unit: 3749

Therefore, as an alternative, any heat source known in the art may provide the necessary means to operate a heating zone. It is not intended to describe all heating zone means available in the art, but what is being claimed is an example of the most economical means of operating a heating means in an operating zone available under the circumstance. The MOST efficient means of course being a heating zone operated with waste heat from the combustor which it operates. This is not meant to exclude any of the other known in the art alternatives, as stated on page 7 of the disclosure, first paragraph.

In fact, below is the exact and precise description, which states that:

*"It must be noted that only a few embodiments of the invention have been illustrated and described and that this disclosure is not intended to be limited thereby but only by the scope and intent of the appended Claims."*

In addition, Applicant is illustrating in Fig. 1, 2, 3 and 4 of the drawings, a heat transfer zone 7 not located near the combustion mechanism's exhaust vent area 10, or interior combustion area 3, or the combustion mechanism's energy transfer area 5, which are all areas well known to someone familiar with the art. The Examiner should again refer to page 8 of the description, under "Detailed Description of a Preferred Embodiment", where under Figure 1, 2, 3 and 4, the various relative steps of the invention and the location of a heating zone other than relative to the combustion area or exhaust vent area of the combustion mechanism are fully explained and detailed.

Art Unit: 3749

Therefore, when referencing Claims 31 and 43 as being unsubstantiated, the Examiner is again mistaken.

**e) Claim 37, a fuel being a suspended coal dust or coal dust slurry:**

The Examiner claims that no support is provided in the disclosure for the application of the claimed method and device to operate with fuel consisting of a suspended coal dust or a coal dust slurry.

The Examiner continues to accumulate further errors when citing Claim 37 as not being supported in the description of the invention.

Applicant is very clear in his description of the fuel accommodated in the invention, it being a fluid hydrocarbon fuel. In order for the Examiner to substantiate the objection as posed, the Examiner would have to demonstrate and prove to someone skilled in the art that a fuel consisting of a mixture of coal dust and air, or coal dust and a vaporised gas, is not a fluid hydrocarbon fuel. The Examiner would need to further demonstrate and prove to someone skilled in the art that a fuel consisting of a mixture of coal dust and fuel oil to form a slurry is not a fluid hydrocarbon fuel.

Both a suspended coal dust mixture and a coal dust slurry mixture as contemplated by Applicant are considered a fluid hydrocarbon by any person skilled in the art, and such fuel mixture may be found in any listing of fluid hydrocarbon fuels. Applicant has included such variation in Claim 37 so as to further limit the general fluid hydrocarbon fuel description in both independent Claim 27 and Claim

Art Unit: 3749

39, all in accordance with the by the Office prescribed requirement for Claim structure.

Applicant suggests that the Examiner reviews MPEP 608.01 (m), FORM OF CLAIMS, which clearly states that Claims should be arranged in order of scope, so that the first Claim presented is the broadest (fluid hydrocarbon fuel), and wherein any dependent Claim thereon should further limit such earlier Claim (coal dust slurry).

The Examiner should also review the reference listed under section 8. on page 39 and 40, providing detailed and pertinent definitions and accepted meanings of "FLUIDS" in accordance with the art.

Applicant further suggests for the Examiner to refer to USC 35 paragraph 112, SPECIFICATIONS, which states that a Claim in dependent form (Claim 37) shall contain a reference to a Claim previously set forth (Claim 27 or Claim 39, - fluid hydrocarbon fuel-), and then specify a further limitation (suspended coal dust or coal dust slurry) of the subject matter claimed in the dependent Claim (37).

Applicant is in full compliance with such prescribed practice, and when the Examiner is referencing Claim 37 as being unsubstantiated, the Examiner has again continued to make or copy a further very obvious mistake.

**f) Claim 40, an insulating material being used:**

Art Unit: 3749

The Examiner claims that no support is provided in the disclosure for the application of an insulating material to balance temperature fluctuations occurring in any of the heat exchange assemblies.

The Examiner is further in error when citing Claim 40 as not being supported in the description of the invention.

Applicant in the description of his invention makes reference on page 5 that the heat exchanger assembly may in certain applications incorporate a heat equaliser segment from heat storage material (insulating material) as part of the heat exchanger assembly, in order to equalise heat transfer from the heating zone to the heat exchanger during on/off cycles of the combustion equipment. This reference certainly indicates that a heat storage material, which, to be effective, must certainly incorporate, or even consist of, a heat insulating material, is contemplated. In order to substantiate the objection posed by the Examiner, the Examiner would have to demonstrate and prove to someone skilled in the art, that a heat storage material can be effective as such without incorporating insulating provisions to reduce loss of any stored heat.

In addition, Applicant respectfully suggests that the Examiner reviews MPEP 608.01, ORIGINAL CLAIMS, in which is stated that in establishing a disclosure, *Applicant may rely not only on the description and on the drawings as filed, but also on the original Claims, if their content justifies it.* The content certainly provides all the necessary justifications.

Art Unit: 3749

The Examiner has failed to demonstrate that the content of Claim 40 lacks the required descriptive nature, and has thereby not shown that the Claim Content is not justified.

It is obvious that Applicant is in full compliance with the prescribed practice, and when the Examiner is referencing Claim 40 as being unsubstantiated, Applicant is correct in his opinion that the Examiner is again in error.

**g) Claim 46, converting the oxidation mixture:**

The Examiner claims that no support is provided in the disclosure for the process of converting the oxidation mixture of fuel and air into a high temperature, high velocity combustion product.

The Examiner is committing a further error when citing Claim 46 as not being supported in the description of the invention.

As is apparent to one skilled in the art, that any combustion mechanism requires approximately 445 lb (24 cft) per hour of fuel to produce one MWH MegaWattHour of energy, regardless of the type of energy conversion or combustion process.

If a combustion mechanism were to produce 150 MWH of energy, the average fuel consumption would be 3,600 cft of fuel per hour. Because the ratio of combustion air to fuel gas is at an average between 10:1 and 25 :1, the total amount of oxidant mix volume (combination of air and fuel gas) flowing into and through the

Art Unit: 3749

combustion area, both before and after ignition, would be at least 39,600 cft per hour. It is obvious that such large amount of fuel would move at a very rapid pace into and through the combustion area of a combustion mechanism. The speed of the oxidant mix flow will be significantly increased as a result of its ignition and combustion in the combustion mechanism, and the typical energy transfer and flow speed of the resulting combustion products may then be subjected to a number of energy exchange methods. The process in this case converts the energy produced during the combustion of the oxidation mix into a pressurized high velocity rotational force for the operation of combustion mechanism systems configured for such energy exchange, both stationary or mobile.

Therefore, when Applicant, in dependent Claim 46, claims the conversion of the oxidation mixture into high temperature, high velocity combustion product, Applicant only refers more specifically to the combustion process of a combustion mechanism used to convert the energy produced into thrust or torque, as described in independent Claims 27 and 39, thereby limiting it to a more precise force required to operate related combustion mechanism systems.

Applicant properly formulates Claim 46 in accordance with the prescribed practice, wherein said dependent Claim 46 provides a further limitation to independent Claims 27 or 39.

Applicant suggests that the Examiner again reviews MPEP 608.01 (m), FORM OF CLAIMS, which clearly states that Claims should be arranged in order of scope, so that the first Claim (Claim 27 or 39, or independent Claim), presented is

Art Unit: 3749

the broadest (energy conversion to heat, thrust or torque), and wherein any dependent Claim (Claim 46) thereon should further limit (thrust or torque) such earlier Claim.

Furthermore, as it is specifically applicable to this objection, Applicant suggests that the Examiner again reviews MPEP 608.01, ORIGINAL CLAIMS, in which is stated that in establishing a disclosure, Applicant may rely not only on the description and on the drawings as filed, but also on the original Claims, if their content justifies it.

As one familiar in the art understands, the reference to forming an oxidation mixture merely describes more precisely the combustion process in a high MW fuel intense combustion system.

The Examiner has failed to demonstrate that the content of Claim 41 lacks the required descriptive nature and instead the Claim content is therefore fully justified. The Examiner has again erred.

**h) Claims 31 and 43, second reference to a heat transfer zone related to a zone other than the exhaust gas vent area of the combustion mechanism:**  
The Examiner claims that no support is provided in the disclosure for the operation of an alternative heat transfer zone other than the combustion or exhaust gas vent areas of the combustion mechanism.

In this case the Examiner is unclear when citing Claims 31 and 43 again in double succession as not being supported in the description of the invention.

Art Unit: 3749

The Examiner again unfortunately has copied a typing error directly from a previous Office action of another Examiner.

The Examiner makes use of the double negative when citing the objection, and Applicant is unable to respond to the Examiner's contradictory and unclear statement.

However, Applicant has already previously provided ample description of one obvious location of both an alternative heat transfer zone to said combustion mechanism, when describing the heat transfer zone located at the air intake location, as well as the location of a heat transfer zone actually related to the combustion mechanism. Applicant suggests for the Examiner to again refer to the description with more care, where on page 5 of the disclosure, first paragraph, Applicant purposely indicates that when access of a heating zone related to the combustion mechanism is not readily available, a heating zone may be employed using heat or energy transfer means from any other operating source known in the art, unrelated to the combustion mechanism, thereby making reference to both a heating zone at the combustion mechanism and the alternative thereto.

**j) Claims 27 to 48, are rejected under 35 U.S.C. 112:**

The Examiner cites the second paragraph of such Patent Law which reads:

Art Unit: 3749

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

The Examiner therefore is rejecting Claims 27 to 48 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention.

If the Examiner is unable to understand the relative Claims and related description of the invention under examination, Applicant respectfully suggests to confer with Primary Examiner Marguerite McMahon, of art unit 3747, and with Department Supervisor Mr. J. Lazarus, which have processed the original Parent Patent of the application being examined herein, and have caused issuance of said Parent Patent on May 18, 2004 without any of the objections being cited herein by this Examiner.

It is Applicant's opinion that there exists a serious conflict of examination procedure, and if the Examiner is sure the referred to Parent Application was issued in error, the Examiner should make the Commissioner aware of all the defects contained in said Parent Patent, defects which are now the cause of all the objections now cited by this Examiner.

Applicant however would be more inclined to believe that the Parent Patent was issued competently, which would lead to the reasonable assumption that the

Art Unit: 3749

present application is based on valid instructions, all issued under such Parent Patent, and the objections raised by the Examiner may be well unfounded.

In fact, when reviewing independent Claim 27 on its own merits, which reads, or may read after amendments:

*27. A method for reducing fuel density while increasing combustion air density, without effecting specified fuel or air volumes, thereby significantly changing the ratio of fuel mass versus combustion air mass, hence oxygen mass, during the process of ignition and combustion of fluid hydrocarbon fuels in combustion mechanisms having a combustion area and at least one burner therein for converting said fuel into heat, thrust, torque or other energy, comprising:*

- a) providing a constant volume of fluid hydrocarbon fuel as fuel for said combustion mechanism;*
- b) directing said constant volume of fuel through a primary fuel supply conduit defining a heat exchanger assembly that extends through a heating zone related to the combustion or exhaust vent area of the combustion mechanism, having a fuel inlet and a fuel outlet;*
- c) reducing the density of said fuel by reducing fuel mass in said constant volume of fuel through heating the fuel to an optimal operating temperature level ranging between 165 degrees Fahrenheit and the fuel's flash point or auto-ignition temperature level as it flows through said heat exchange assembly;*
- d) maintaining a constant volume of density reduced fuel for ignition in the combustion area of said combustion mechanism;*
- e) providing a constant volume of combustion air for the combustion process in said combustion mechanism;*

Art Unit: 3749

- f) directing said constant volume of combustion air through a primary air supply conduit defining a heat exchanger assembly that extends through a cooling zone having an air inlet and an air outlet;*
- g) increasing air density of said constant volume of combustion air through cooling said combustion air to an optimal operating temperature of between ambient temperature or plus 50 degrees and minus 40 degrees Fahrenheit as it flows through said air heat exchanger assembly;*
- h) maintaining a constant volume of cooled high density air for combustion in the combustion area of said combustion mechanism;*

Claim 27 is pertinent and as such fully describes, particularly points out and distinctly claims the subject matter which the Applicant regards as his invention, and which is already competently approved and recognised as such by the US Patent Office, and documented with the issuance of the Parent Patent 6,736,118

If the Examiner is in conflict with such parameter, the Examiner should suggest to the Commissioner to review this particular case, as the Commissioner's seal and signature are affixed to said approved and issued Parent Patent. Otherwise, Applicant respectfully suggests for the Examiner to admit that a further error has occurred.

#### **7. Double Patenting:**

The Examiner cites the following rejection:

*Rejection based on double patenting of the "same invention" type finds its support in the language of 35 USC 101, which states that "whoever invents or discovers any new and useful process.....may obtain a patent therefore....." (Emphasis added).*

Art Unit: 3749

*Thus the term "same invention," in this context, means an invention drawn to identical subject matter. See Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894), In re Ockert, 245 F. 2d 467, 114 USPQ 330 (CCPA 1957); and re Vogel, 422 F. 2d 438, 164 USPQ 619 (CCPA 1970)*

*A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by cancelling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based on upon 35 U.S.C. 101.*

When reviewing the above cited references, none are related to Divisions.

*Claims 27 to 32 and 36 to 47 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 23 to 28, 31 to 49, 42 and 43 of copending Application No: 10/798,294. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.*

*Since claims 27 to 32 and 36 to 47 of the present application and claims 23 to 28, 31 to 40, 42 and 43 of application 10/798,294 are drawn to the "same invention" the prohibition of double patenting rejections under 35 U.S.C. 121 does not apply. See MPEP paragraph 804.01, example F.*

The Examiner again copies the identical wording and references as used in the examination of 10/798,294, class 60, by the other Examiner. This Examiner thereby copies the errors contained in such previous argument cited as follows:

Art Unit: 3749

*Rejection based on double patenting of the "same invention" type finds its support in the language of 35 USC 101, which states that "whoever invents or discovers any new and useful process.....may obtain a patent therefore....." (Emphasis added). Thus the term "same invention," in this context, means an invention drawn to identical subject matter. See Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894), In re Ockert, 245 F. 2d 467, 114 USPQ 330 (CCPA 1957); and re Vogel, 422 F. 2d 438, 164 USPQ 619 (CCPA 1970)*

*A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by cancelling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based on upon 35 U.S.C. 101.*

*Claims 27 to 32 and 36 to 47 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 23 to 28, 31 to 49, 42 and 43 of copending Application No: 10/798,294, class 60. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.*

*Since claims 27 to 32 and 36 to 47 of the present application and claims 23 to 28, 31 to 40, 42 and 43 of application 10/798,294 are drawn to the "same invention" the prohibition of double patenting rejections under 35 U.S.C. 121 does not apply. See MPEP paragraph 804.01, example F.*

The Examiner is again contradicting an office decision arrived at when the Parent Application was processed. At that time the Director of the US Patent Office came to the conclusion that the Divisional Application herein examined is NOT

Art Unit: 3749

"the same invention", and requested the division of all other such Inventions from what has subsequently become the Parent Patent.

Applicant is of the opinion that prohibition of double patenting does apply, and suggests that the Examiner has grossly misinterpreted MPEP 894.01, example F, which in fact specifies that the *"issue of double patenting may arise as to whether 35 USC 121 prevents the use of a double patenting rejection when the identical invention is claimed.....however.....35 USC 121 of course does not provide any rule for rejecting NON-identical-inventions.*

As the Office has already made the decision that the various inventions contained in the Parent Application are **NON identical inventions**, the Examiner's decision contradicts such already established decision. Unless the Examiner is able to prove that the Office decision by the Director is faulty, prohibition is incorrect.

Applicant herewith cites the US Patent Office decision as formulated in the first office action of Examiner McMahon, dated July 17, 2003.

### ***DETAILED ACTION***

#### ***Election / Restrictions***

*Restriction to one of the following inventions is required under 35 U.S.C. 121;*

<i>Invention I</i>	<i>Various types of heaters</i>	<i>class 431</i>
<i>Invention II</i>	<i>A single or dual cycle power generator</i>	<i>class 310</i>
<i>Invention III</i>	<i>A gas turbine engine</i>	<i>class 60</i>
<i>Invention IV</i>	<i>An internal combustion engine</i>	<i>class 123</i>

Art Unit: 3749

*The inventions are distinct, each from each other because of the following reasons: Inventions I, II, III and IV are unrelated as it can be shown that they perform different functions, all in accordance with the quoted reference MPEP paragraph 806.04 and paragraph 808.01.*

When filing the original Parent Application, it was Applicant's intention to show that the invention was only one invention, and that no restriction was required, but it was the decision of the Patent Office that said application contained at least four separate Inventions, which were distinctly identified.

If the Examiner in this action continues to be of a different opinion, Applicant respectfully suggests for the Examiner to take the necessary steps within the US Patent Office to demonstrate that the Commissioner has acted in error when requesting division and when issuing the Parent Patent, and that the Examiner has all the necessary information and competent details to prove such error.

For Examiner's guidance, Applicant would further like to draw attention to the following rules and regulations with regards to a rejection under Double Patenting.

35 U.S.C. 121 DIVISIONAL APPLICATION provides the following rule.

*If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title, it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with*

Art Unit: 3749

*respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such requirement, shall not be used as reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.*

In determining whether a proper basis exists to enter a double patenting rejection, the Examiner must determine the following:

- (A) Whether a double patenting rejection is prohibited by the third sentence of 35 U.S.C. 121 (see MPEP Section 804.01; if such a prohibition applies, a double patenting rejection cannot be made);
- (B) Whether a statutory basis exists; and
- (C) Whether a nonstatutory basis exists.

Each determination must be made on the basis of all the facts in the case before the Examiner.

#### 804.01 Prohibition of Double Patenting Rejections Under 35 U.S.C. 121

When processing the first filed Parent Application, the Director has already made the decision that such Application contained four independent and distinct inventions. Applicant therefore respectfully suggests for the Examiner to challenge the Director, should the Examiner insist that the Director was at fault when making such decision, proving that the referred to inventions are in fact one and the same.

Art Unit: 3749

When filing the first Parent Application, it was Applicant's intention to file a single Application for a single invention, applicable to the various classes. However, it was the Director's decision that said Parent Application contained a number of independent and distinct inventions, in fact the Director precisely specified such distinctions.

With regards to any possible conflict between applications 10/798,292, class 431, and 10/798,294, class 60, it is Applicant's intention, depending on the decision by the Examiner which of the present Claims may finally be accepted, to agree to a restriction of application 292 for industrial process heaters and furnaces or smelters, as may be classified in class 431, or for equipment specified under class 310. (Invention I or IV, as per original Restriction for Division).

Where required, Applicant will nevertheless endeavor to amend Claims in such a fashion as to overcome any possible objections that may be plausible, as already indicated. If necessary, Applicant will attach Amendments, including amended Claims pages for replacement of the original.

With regard to the filing date of application 10/798,292, Applicant again respectfully draws attention to the 35 U.S.C. 120 rule, which states that a divisional application shall be entitled to the filing date of the parent application, such filing date being November 14, 2002.

It is therefore obvious that when the double patenting objection was posed by the Examiner and the references cited to substantiate such objection, the Examiner

Art Unit: 3749

did NOT make his determination based on all the facts in this case (Emphasis added).

Should the Examiner however be able to convince the Director and recombine the various inventions identified by the Director as separate, distinct and independent, Applicant would be very pleased and grateful to the Examiner, and would then apply for a refund of the costs incurred due to the number of divisions and separate filings incorrectly requested by the Director.

**8. *Claims Rejection under 35 USC paragraph 102:***

The Examiner cites that Claims 23, 25, 28, 30, 31, 33, 34, 36, 39, 41 and 43 are rejected as being anticipated by Arenson in his Patent 3,720,057.

The Examiner continues to make incorrect and incomplete assumptions when citing further:

*The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejection under this section made in this Office action:*

*A person shall be entitled to a patent unless -*

*b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

Art Unit: 3749

*Claims 27, 29, 32, 33, 36, 38, 39, 41, 44 to 46, and 48 are rejected under 35 USC 102(b) as being anticipated by US Patent No. 3,720,057 to Arenson ("Arenson").*

*Arenson discloses in Figure 1 - 4 the invention described in Applicant's claims 27, 29, 32, 33, 36, 38, 39, 41, 44 - 46, and 48. In particular, in Figure 3, Arenson shows a process and device where a first heat exchanger assembly (116) extends through a first heat transfer zone related to the combustion mechanism and a second heat exchanger assembly (126) extending through a second heat transfer zone of the combustion mechanism. The fuel supplied through conduit (120) is heated at heat exchanger (116), which is heated by exhaust gases from a combustion mechanism conveyed through line (114). Air is conveyed through conduit (128) to the second heat exchanger (126). Example 2 (beginning in column 12) shows that natural gas leave heat exchanger (116) at a temperature of 168 degrees F and that air leaves heat exchanger (126) at a temperature of 40 degrees F. These specific examples fall within Applicant's claimed temperature ranges.*

*In regards to claims 33 and 46, in order for the combustion device (gas turbine engine 112) of Arenson to operate, there is necessarily some means for converting the oxidation mixture of fuel and air into high temperature, high velocity combustion products. Further, as shown in Figure 1, the exhaust products are used to heat a first heat exchanger (32) and additional heat exchanger (46), which is considered to be a related energy transfer system.*

When citing the Arenson invention as an objection to this Application, the Examiner is incorrectly comparing Applicant's invention, which, as defined by the

Art Unit: 3749

Director of the Office is a distinct and independent invention under classification 431 (according to distinct invention I, various types of heaters class 431), with an invention under classification 60 (according to distinct invention III, a gas turbine engine class 60) . Therefore citing such objection for this application should be considered inappropriate. Such citation would be more proper for invention III.

However, should Examiner still be convinced otherwise, Applicant will provide the following further reasons to prove the Examiner to be mistaken.

When comparing this application with the Arenson invention, it is obvious that the Examiner has ignored one of the major distinction of Applicant's invention, disclosed and distinctly described in both independent Claims. Applicant makes specific reference to the hydrocarbon fuel being a fluid. I suggest for the Examiner to investigate the specific meaning and allocation of the word fluid, especially when the word is to describe a matter other than a liquid, like air, or a gas already in its vaporous state.

This is in fact the reason why Applicant has referred to the fluid hydrocarbon fuel described in his independent Claims as a fluid fuel "such as" natural gas, and "or the like" in order to provide the distinction of such fuel being in a state other than a liquid, such as a vapour or a gas, all as in previously issued patents.

When the Examiner objects to the use of the phrase "such as" and "the like", on the basis that it renders the Claims indefinite, the Examiner is in error. In fact the use of the objected to phrases in this case render the Claims more specific and more clear. Therefore the Examiner may reconsider such objection.

Art Unit: 3749

The difference and uniqueness of Applicant's invention over Arensen is related directly to such contained and significantly distinct subject matter detailed in the description and Claims, the fundamental difference between "Fluid" and "Liquid".

For the Examiner's understanding, the following is the Webster's Dictionary definition of "FLUID":

**Definition: Fluid**

**Adjective**

1. Subject to change; variable; "a fluid situation fraught with uncertainty"; "everything was unstable following the coup.
2. Characteristic of a fluid; capable of flowing and easily changing shape.
3. Smooth and unconstrained in movement; "a long, smooth stride"; "the fluid motion of a cat"; "the liquid grace of a ballerina"; "liquid prose".
4. In cash or easily convertible to cash; "liquid (or fluid) assets".
5. Affording change (especially in social status); "Britain is not a truly fluid society"; "upwardly mobile".

**Noun**

1. A substance that is fluid at room temperature and pressure.
2. A continuous amorphous substance that tends to flow and to conform to the outline of its container: **a liquid or a gas.**

Art Unit: 3749

### **Specialty Definition: Fluid**

#### **Aerospace**

A substance which, when in static equilibrium, cannot sustain a shear stress;  
**a liquid or a gas.** This concept is only approximated by actual liquids and gases.

#### **Mining**

- A. The quality, state, or degree of being **fluid: a liquid or gaseous state.** CF:gas
- B. The physical property of a substance that enables it to flow and that is a measure of the rate at which it is deformed by a shearing stress, as contrasted with viscosity: the reciprocal of viscosity.
- C. In mineral transport, the term is **not confined to liquids and slurries, but is also used for finely divided solids that flow readily in air currents, fluosolids reactors, or through dry ball mills.**

#### **Fluid Mechanics**

A branch of science that deals with the special properties of **liquids, vapors and gases.**

Based on the before listed definition of a "Fluid Hydrocarbon Fuel", the Examiner should be able to recognise that the Arenson disclosure is not at all related to the present invention. In fact, when reviewing the Arenson Claim 1, the difference is most obvious.

Arenson defines his invention as

Art Unit: 3749

*"A method of continuously vaporising and superheating a stream of liquefied cryogenic fluid for an ultimate use, comprising the steps of a) passing said cryogenic fluid in heat exchange relationship with ambient water to heat and vaporise said cryogenic fluid stream".*

As the Examiner has surely noticed, said segment of method claimed by Arenson is strictly for the purpose of converting stored LNG Liquid Natural Gas, or LPG Liquid Propane Gas or other liquid cryogenic fluids, into their vaporous state. The described liquid cryogenic fluid is understood to be at a temperature of minus 260 degrees Fahrenheit. See column 10, Example 1 of US 3,720,057.

Applicant defines a specific Combination Method in his invention in independent Claim 27 as *"A method for reducing fuel density while increasing combustion air density for the purpose of significantly changing the ratio of oxygen mass"*.

The method combination claimed by Applicant for the equivalent fuel preheating segment of the combination is NOT for the purpose of vaporising the fuel, but is instead specifically for improving the ratio of oxygen mass versus fuel mass. Applicant further describes the lowest ambient operating level of a gaseous fuel, or liquid fuel for that matter, from which temperature will be raised, as 35 degrees Fahrenheit, which provides an already vaporous condition, certainly not minus 260 degrees F, which is Arenson's ambient fuel temperature.

See page 3, 2nd paragraph of application 10/798,292.

Art Unit: 3749

There is absolutely NO comparison to be drawn between the method disclosed by Arenson and the combination method described in Applicant's disclosure. Even in view of the Velke US 5,888,060 Patent, persons familiar in the art would be unable to reach the conclusion as speculated by the Examiner. In fact, Applicant herebelow provides the necessary support for his conclusion by citing a response received by the CGRI Canadian Gas Research Institute, a Canadian gas combustion expert, which had been requested, under a suitable confidentiality arrangement, to provide an opinion as to the preheating of fuel resulting in an improvement or increase in the oxygen ratio in a combustion process.

Following was the CGRI response:

In a letter addressed to the Applicant, dated April 27, 1999, CGRI Research Engineer Martin Thomas provided an opinion on behalf of the Canadian Gas Research Institute, that:

*"Oxygen enrichment of the combustion air (i.e. increasing the oxygen concentration in a volume of combustion air) is a well established industrial process improvement technique. In our opinion, the "Velke Invention of" preheating a fuel gas does not provide oxygen enrichment. To our knowledge, oxygen enrichment can only be achieved by adding oxygen to air, or by removing the other constituents (nitrogen, CO<sub>2</sub>, argon, etc.) from the air. Therefore, we cannot support the claims made for the "Velke Disclosure" as a result of improvements caused by oxygen enrichment."*

Art Unit: 3749

CGRI the Canadian Gas Research Institute, a well recognised authority in the gas industry, thereby confirms industry opinion that the any enrichment or increase in the oxygen ratio of a given volume of combustion air can only be achieved by adding actual oxygen, or by removing the other constituents, but cannot be achieved by any other means, such as preheating of fuel or precooling of combustion air.

CGRI concludes its letter of opinion by stating that *"Because CGRI is unable to explain, through sound scientific principles, the claimed / measured benefits,....CGRI will no longer be involved in the evaluation process."*

Applicant's invention is therewith definitely confirmed as being unique. Such method is not disclosed, nor contemplated or even hinted in the Arenson invention.

Any further relations cited by the Examiner between Arenson and Velke, including some of the operating stages of the 5,888,060 disclosure, do NOT provide the required obviousness to anyone skilled in the art, as claimed by the Examiner.

#### **9. Claim Rejection - 35 USC paragraph 103**

The Examiner cites the following when quoting 35 USC 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

a) *A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was*

Art Unit: 3749

*made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

The above cited section 103 (a) in fact outlines precisely why the Examiner is incorrect when presenting his obviousness rejection thereunder, because this section specifically states very clearly that "*.... the subject matter sought to be patented and the prior art are such that THE SUBJECT MATTER AS A WHOLE would have been obvious.....*", which the Examiner has completely failed to recognise.

When the Examiner cites:...."*Claims 28, 30, 31, 34, 35, 40, 42, 43, and 47 are rejected under 35 USC 103(a) as being unpatentable over Arenson as applied to the claims above and further view of US Patent No. 5,888,060 to Velke ("Velke")*" the Examiner is listing only some of Applicant's dependent Claims, which do not at all disclose or describe the invention. All the above cited Claims are dependent Claims, and as such are meaningless without inclusion of the wording and the description of the independent Claim to which they relate.

In fact, when using rejected Claim 34 as an example, said Claim already reads "*A method according to Claim 27, wherein the combustion mechanism is a furnace*" which, when used for the purpose of comparing against prior art should be viewed in its entirety, or as "*THE SUBJECT MATTER AS A WHOLE*", whereby Claim 34 would properly read as follows:

**34. A method for reducing fuel density while increasing combustion air density, without effecting specified fuel or air volumes, thereby significantly**

Art Unit: 3749

*changing the ratio of fuel mass versus combustion air mass, hence oxygen mass, during the process of ignition and combustion of fluid hydrocarbon fuels in combustion mechanisms having a combustion area and at least one burner therein for converting said fuel into heat, thrust, torque or other energy, comprising:*

- a) providing a constant volume of fluid hydrocarbon fuel as fuel for said combustion mechanism;*
- b) directing said constant volume of fuel through a primary fuel supply conduit defining a heat exchanger assembly that extends through a heating zone related to the combustion or exhaust vent area of the combustion mechanism, having a fuel inlet and a fuel outlet;*
- d) reducing the density of said fuel by reducing fuel mass in said constant volume of fuel through heating the fuel to an optimal operating temperature level ranging between 100 degrees Fahrenheit and the fuel's flash point or auto-ignition temperature level as it flows through said heat exchange assembly;*
- i) maintaining a constant volume of density reduced fuel for ignition in the combustion area of said combustion mechanism;*
- j) providing a constant volume of combustion air for the combustion process in said combustion mechanism;*
- k) directing said constant volume of combustion air through a primary air supply conduit defining a heat exchanger assembly that extends through a cooling zone having an air inlet and an air outlet;*
- l) increasing air density of said constant volume of combustion air through cooling said combustion air to an optimal operating temperature of between ambient temperature or plus 50 degrees and minus 40 degrees Fahrenheit as it flows through said air heat exchanger assembly;*

Art Unit: 3749

*m) maintaining a constant volume of cooled high density air for combustion in the combustion area of said combustion mechanism;  
wherein the combustion mechanism is a furnace.*

Based on the above demonstration and argument, the Examiner is making incomplete and faulty comparisons with the prior art cited, both the Arenson and the Velke 5,888,060 disclosures. Just because Arenson and Velke teach the use of a heat storage material to support the method of their invention does not preclude that the inventions are similar. In fact they are not similar at all.

The Examiner further states that:

*"Arenson discloses all the limitations of claims 28, 30, 31, 34, 35, 40, 42, 43, and 47 except for an insulating or heat storage material forming part of the heat exchanger assemblies, one of the heat transfer zones being related to the combustion area of the combustion mechanism, and that the combustion mechanism is a furnace or process heater".*

The Examiner should have recognised that the Arenson invention discloses the use of heat for converting a cryogenic liquid fuel from its ambient temperature of minus 260 degrees Fahrenheit to a vaporised fuel at a temperature anywhere between 6 degrees and 168 degrees Fahrenheit. Furthermore, the Examiner should have noticed that Arenson does in fact not claim any fuel temperature range in any of his claims.

Art Unit: 3749

Applicant's invention instead discloses the use of a fluid hydrocarbon fuel already at an ambient temperature range of 37 degrees Fahrenheit, a temperature at which the fuel disclosed by Arenson are no longer in a liquefied cryogenic state, then heating said fuel to a temperature range of between 100 degrees and 900 degrees Fahrenheit. Furthermore, Applicant discloses an invention which combines the heating of said type of fuel with the cooling of combustion air, a combination specifically for the purpose of increasing the oxygen ratio in the combustion process. Therefore it is not at all obvious that *"the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains"*, and it is actually contrary to the provision in and the intent of 35 USC section 103(a) for the Examiner to pose a rejection thereunder.

The Examiner further cites the following:

*Velke teaches a device for pre-heating fluid flue to decrease its density and thus increase efficiency that is considered analogous prior art. In Velke, a heat storage material forms part of a heat exchanger assembly (see col.4, lines 18 - 23) for the purpose of equalising heat transfer from the heating zone to the heat exchanger during on/off cycles of the appliance. Velke also teaches the use of insulating material (21) in the heat exchanger shown in Figure 4 for the purpose of protecting against external heat loss. Velke also teaches that the heat transfer zone is operated from a source other than the combustion or exhaust gas vent area of the combustion mechanism in the case where access to such heat source location is difficult (see col.4, lines 16 -18). Velke further teaches the use of a heat transfer*

Art Unit: 3749

*zone being related to the combustion area of the combustion mechanism for the purpose of increasing efficiency of the appliance (see the abstract). The fuel employed is natural gas, propane gas, or other conventional fluid hydrocarbon fuel (see col. 3, lines 64 - 65). In regard to claims 34 and 35, the combustion device disclosed by Velke is a combustion appliance that may be a furnace or heating devices (see col.4, lines 45 - 46 and col.8, lines 45 - 51).*

When citing Patent 5,888,060, the Examiner repeats the mistake made with the Arenson comparison. The Examiner is again using dependent Claims in his comparison without referencing and including the basic invention which is specifically disclosed in the independent Claims, which are then narrowed by the dependent Claims. The large temperature range between fuel and air as claimed by Applicant to improve the oxygen ratio, a range as high as 1400 degrees Fahrenheit, would exclude any reason for comparison to establish obviousness.

Furthermore, as is described in 5,888,060 in column 5 lines 31 to 67, the expected result on which the invention is based is the increase in fuel volume ONLY, without claiming an increase in the oxygen ratio. In column 3 lines 9 to Velke discloses that fuel volume may be increased or expanded by some 15% when preheating the fuel to 115 degrees Fahrenheit. In fact, as anyone familiar in the art understands, a certain advantage may be obtained in the process of combustion when the fuel volume flow, better explained as fuel flow speed, can be increased, an improvement in the combustion process can be obtained. This more specifically describes the invention disclosed in the 5,888,060 Patent.

Art Unit: 3749

In the present invention, Applicant distinctly claims an increase of the oxygen ratio in the maintained as specified combustion oxidation mixture volume.

In other words, Velke, in US Patent 5,888,060, instead claims a method resulting in a reduction of fuel consumption by way of increasing fuel volume, or (decreasing fuel density), claiming the advantage of increasing fuel volume to be the invention, but the invention does not contemplate, disclose or even claim any increase in the oxygen ratio in the fuel / air mix (the oxidation mixture) while maintaining specified volumes, nor does the 060 disclosure make any reference to the method of using the combination of heating of fuel and cooling of combustion air for the purpose of improving said oxygen ratio, even though, as the Examiner states, some of the intermediate operating stages disclosed in some of the dependent Claims of both inventions may be similar. Any such similarity of some of the operating components does NOT conclude the basis of both inventions to be identical. In fact, the disclosed methods are in stark contrast.

Although the prior art cited is not relied upon, Applicant nevertheless provided the above response to demonstrate and prove the Examiner's further obvious error.

It must also be noted that, when referencing Patent 5,888,060, the Examiner is not able to cite any Claims of said disclosure in order to substantiate relevancy as to obviousness. All citations are in reference to the description of the invention, but then only to segments and components which are claimed in dependent Claims. Such dependent Claims however do not describe the operating method or device of the invention, but describe instead only certain limitations to the independent Claims

Art Unit: 3749

they are too narrow. This includes the use of a heat storage material, the possible employment of a heating zone other than from the combustion mechanism, or a heating zone operated by the combustion mechanism. It further includes reference to a combustion mechanism possibly being a furnace or heating device. These are all references which do not provide any indication of obviousness to a person of ordinary skill in the art at the time the invention was made, including the Arenson disclosure which provides no plausible reason for the obviousness rejection.

The Examiner is of course mistaken when suggesting such conclusion, and Applicant will again provide the necessary expert opinion by someone very skilled in the art, that such conclusion is contrary to expectations in the industry, even when supportive details, and in fact test results, were supplied.

Applicant again provides the Examiner with a copy of an opinion letter by CGRI the Canadian Gas Research Institute:

In a letter addressed to Applicant, dated April 27, 1999, CGRI Research Engineer Martin Thomas provided an opinion on behalf of the Canadian Gas Research Institute, stating that:

*"Oxygen enrichment of the combustion air (i.e. increasing the oxygen concentration in a volume of combustion air) is a well established industrial process improvement technique. In our opinion, the "Velke Invention of" preheating a fuel gas does not provide oxygen enrichment. To our knowledge, oxygen enrichment can only be achieved by adding oxygen to air, or by removing the other constituents (nitrogen, CO<sub>2</sub>, argon, etc.) from the air. Therefore, we cannot support the claims*

Art Unit: 3749

***made for the "Velke Disclosure" as a result of improvements caused by oxygen enrichment."***

CGRI the Canadian Gas Research Institute, a well recognised authority in the gas industry, thereby confirms industry opinion that the any enrichment or increase in the oxygen ratio of a given volume of combustion air can only be achieved by adding actual oxygen, or by removing the other constituents, but cannot be achieved by any other means, such as preheating of fuel or precooling of combustion air.

CGRI concludes its letter of opinion by stating that *"Because CGRI is unable to explain, through sound scientific principles, the claimed / measured benefits,....CGRI will no longer be involved in the evaluation process."*

Applicant's invention is therewith definitely confirmed again as being unique. Therefore, the method in 5,888,060, even in conjunction with the details disclosed by Arenson, would not lead any person skilled in the art to the conclusion the Examiner was able to reach. Applicant again believes to have sufficiently demonstrated and proven that the Examiner has made a mistake in his rejection.

Applicant will attach a copy of a confidential report by the ETV Environmental Technology Verification institution, dated as late as June 2000, which institution operates under the Ministry of the Environment, Government of Canada, and further confirms that CGRI Canadian Gas Research Institute admits but to a combustion efficiency improvement of the invention which is relative only to the amount of energy added to the fuel by way of preheating, rather than to any

Art Unit: 3749

other possible effect. In fact, CGRI considered any other claimed effect as a claim which is considered breaking the law of thermodynamics.

In fact, to this day, the industry only recognizes and agrees with the increase in energy input achieved by the energy increase resulted from the amount of energy added through pre-heating of the fuel, but never recognizes or agrees to any increase in the kinetic improvement or improvement of the oxygen ratio in the combustion process, due to fuel pre-heating.

So much for the Examiner rejecting the invention for obviousness to someone familiar in the art.

#### ***10. Final Action***

The Examiner states that Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPSP paragraph 706.07(a).

Said paragraph 706.07(a) reads as follows:

#### ***706.07(a) Final Rejection, when Proper on Second Action***

*Under present practice, second or any subsequent action on the merits shall be final, EXCEPT where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on*

Art Unit: 3749

*the merits in any application, or patent undergoing reexamination proceedings, will NOT be made final if it includes a rejection on newly cited art, of any claim not amended by applicant, or patent owner, in spite of the fact that other claims may have been amended to require newly cited art.*

*A second or any subsequent action on the merits in any application, or patent involved in reexamination proceedings, should NOT be made final if it includes a rejection on prior art not of record, or any claim amended to include limitations which should reasonably have been expected to be claimed*

Applicant believes that the Examiner is acting contrary to the prescribed practice, and that no proper reason exists to necessitate this Office action to be final. Following are the reasons why the Examiner is contradicting the quoted Office practice.

Applicant is convinced that the Examiner has introduced new grounds of rejection not necessitated by the Applicant's amendment, and Applicant herewith provides the following arguments.

The amendment submitted by Applicant was strictly contained to some of the Claims of the application. The Claims amendment consisted of the following:

Original independent Claim 1

*A method for improving the combustion efficiency of a combustion mechanism operating with fluid hydrocarbon fuel, having an ignition and combustion area therein to convert said fuel into heat, thrust, torque or other type of energy, resulting*

Art Unit: 3749

*in the reduction of fuel consumption and harmful emissions without effecting performance output of the combustion mechanism, comprising:*

- a) providing a constant volume of ambient temperature fluid hydrocarbon fuel as fuel for said combustion mechanism;*
- b) directing said constant volume of fuel through a primary fuel supply conduit defining a fuel heat exchanger assembly that extends through a heating zone having a fuel inlet and a fuel outlet;*
- c) reducing fuel density by reducing fuel mass in said constant volume of fuel through heating the fuel to an optimal operating temperature of between 100 degrees Fahrenheit and the fuel's auto-ignition temperature as it flows through said fuel heat exchanger assembly;*
- d) maintaining a constant volume of heated low density fuel for ignition in the combustion area of said combustion mechanism;*
- e) providing a constant volume of ambient temperature air as combustion air for said combustion mechanism.*
- f) directing said constant volume of combustion air through a primary air supply conduit defining an air heat exchanger assembly that extends through a cooling zone having an air inlet and an air outlet.*
- g) increasing air density by increasing air mass in said constant volume of combustion air through cooling the combustion air to an optimal operating temperature of between combustion mechanism ambient temperature and minus 40 degrees Fahrenheit as it flows through said air heat exchanger assembly;*
- g) maintaining a constant volume of cooled high density air for combustion in the combustion-area of said combustion mechanism;*

Art Unit: 3749

Claims 2 to 13 are dependent Claims and are all required to narrow the scope of the independent Claim they refer to.

In fact, the description of the invention discloses on page 2, third paragraph:  
*For the purpose of creating an even higher oxygen enhanced combustion air/fuel mixture, but without the requirement for any additional energy to perform such task, the present invention employs a different set of circumstances.*

Furthermore, on page 2, fourth paragraph the following is disclosed:  
*To effect combustion efficiency and a noticeable reduction in harmful flue gas emission, a combustion burner will respond favorably to any increase in ratio of oxygen/combustion air mass versus fuel mass in the mixture which is delivered to its burner nozzle for ignition. The most significant (oxygen) ratio change may be obtained through the combination of constantly elevating the fuel precombustion temperature level while at the same time maintaining or even reducing the combustion air temperature level.*

When Applicant amended the Claims as a result of the first Office action, it was for the purpose of more precisely setting out the subject matter regarded as the invention, as requested by the Examiner under 35 USC 112 Claim Rejection.

Applicant therefore changed original independent Claim 1 to amended independent Claim 27:

*(New) A **method** for reducing fuel density while increasing combustion air density, without effecting specified fuel or air volumes, thereby significantly changing the*

Art Unit: 3749

*ratio of fuel mass versus combustion air mass, hence oxygen mass, during the process of ignition and combustion of fluid hydrocarbon fuels such as natural gas, propane gas and the like, in combustion mechanisms having a combustion area and at least one burner therein for converting said fuel into energy, such as heat, thrust or torque, comprising:*

- a) providing fluid hydrocarbon fuel as fuel for said combustion mechanism;*
- b) directing said fuel through the fuel supply conduit defining a first heat exchanger assembly that extends through a first heat transfer zone related to the combustion mechanism;*
- e) reducing the density of said fuel by heating the fuel as it flows through said first heat exchanger assembly to an optimal fuel operating temperature level ranging between 100 degrees Fahrenheit and the fuel's flash point or auto ignition level;*
- n) maintaining a constant volume of density reduced fuel to the combustion area of said combustion mechanism;*
- o) providing combustion air for the combustion process in said combustion mechanism;*
- p) directing said combustion air through an air supply conduit defining a second heat exchanger assembly that extends through a second heat transfer zone of said combustion mechanism;*
- q) increasing the density of said combustion air by cooling the combustion air as it flows through said second heat exchanger assembly to an optimal air operating temperature level of between plus 50 and minus 25 degrees Fahrenheit;*
- r) maintaining a constant volume of density increased combustion air to the combustion area of said combustion mechanism.*

Art Unit: 3749

Therefore, the only amendment and change in substance occurred in the preamble portion of the Claim. This was submitted in response to Examiner's request for Applicant to be more definite and distinctly claiming the subject matter. As is obvious, the substance added to the Claim was both supported and disclosed in the description of the invention (see page 56 of this response, reference to increase in oxygen ratio as described in the disclosure), or was based on the accepted practice of allowing *any claim amended to include limitations which should reasonably have been expected to be claimed*, (see pages 40, 41 and 42 of this response, reference to fluids and interpretation of fluid hydrocarbon fuels). Based on such support, the reference to a coal dust slurry etc. being a fluid hydrocarbon fuel is more than reasonable to be expected, and should not be objected to by the Examiner, or considered new ground for rejection under the section of the rule stating: *where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant.*

Under such circumstance, it is obviously unreasonable and in fact in conflict with MPEP paragraph 706.07(a) for the Examiner to claim that Applicant's amendment presented NEW GROUND(S) for rejection, which necessitated this action to be made final. Such grounds of rejection, claimed by the Examiner to be NEW GROUND(S), have always been present, but for the Examiner not being able to identify them. Therefore, if such cited grounds actually are grounds for objection at all, they must be considered OLD GROUND(S). In fact, as Applicant has proven hereinbefore, and in accordance with the arguments and substance support provided

Art Unit: 3749

herein, that the Examiner is in error when finding such objections and rejections in the first place, and for considering such to be necessitative NEW GROUND(S).

### *11. Conclusion*

Applicant is of the opinion to have demonstrated and proven that the Examiner has erred when finding that the amended Claims necessitated new grounds for rejection, and Applicant therefore formally requests under MPEP 706.07(d) that the Examiner reconsider and withdraw the finality of the rejection.

Failing Examiner's agreement with Applicant's request for withdrawal, and upon proper and timely notice of and cited reasons for Examiner's decision for denial of withdrawal of finality, Applicant intends to file a petition to the Commissioner under 37 CFR, paragraph 1.181, to have this examination reviewed and ruled upon. As the time period available for Applicant to respond according to paragraph 1.181(f) is two month from this action, the Examiner would need to inform Applicant of a decision regards reconsideration within a sufficient time period.

The Examiner may remember that his argument in the previous Office action citing rejection of this application under the doctrine of obviousness based on US Patent No. 6,736,118. Applicant is unable to comprehend how the Examiner was able to recognize obviousness between both inventions, when in fact the Examiner now claims that, under **Claim Rejections - 35 USC 112, second paragraph**, upon

Art Unit: 3749

further review of the invention, the invention disclosed in this application is now indefinite for failing to particularly point out and distinctly claim the subject matter with Applicant regards as the invention.

Such argument is contradictory, and has absolutely no support in reality.

Although when previously incorrectly citing a double patenting rejection of this Divisional Application with its issued Parent Application, the Examiner was able to fully recognize the distinction in the subject matter of the invention, otherwise the Examiner would have been unable to come to such conclusion.

Such action is sometimes referred to as "going from bad to worse". Citing double patenting of a Divisional Application with its Parent Patent was an obvious and significant error, as Applicant has proven in his previous Office response dated December 23, 2004. But for the Examiner now not able to recognize the subject matter of the same invention being again reviewed, and stating that Applicant is failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention, is seriously multiplying the error.

Applicant will make the requested corrections in the description and attach the amendments or replacement sheets.

Applicant will further include a corrected drawing sheet properly identified.

Applicant further attaches a copy of the ETV Environmental Technology Verification, Canadian Government Confidential Report.

Art Unit: 3749

To summarize Examiner's Claim Rejection under 35 USC 112, Applicant provides a detailed analysis of independent method Claim 27 and independent device Claim 39, inserting (in brackets) pertinent references to matching descriptions in the specification, demonstrating Examiner's error when claiming that the subject matter of the invention was not described in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention:

*A method for reducing fuel density while increasing combustion air density*

**(PAGE 4, third paragraph - "disclosed a method and device providing the present effect of reducing fuel density while at the same time maintaining or increasing combustion air density"),**

**(PAGE 4, third paragraph - "The present combination effect is generally achieved by pre-heating natural gas or propane gas, or other conventional fluid hydrocarbon fuels")**

**(Page 2, fourth paragraph - "The most significant (oxygen) ratio change may be obtained through the combination of constantly elevating the fuel pre-combustion temperature level while at the same time maintaining or even reducing the combustion air temperature level)**

*without effecting specified fuel or air volumes,*

**(PAGE 3, second paragraph - "as both combustion air and fuel flow volumes remain constant")**

Art Unit: 3749

*thereby significantly changing the ratio of fuel mass versus combustion air mass, hence oxygen mass,*

**(PAGE 3, second paragraph - "This would obviously result in a significant increase in the available oxygen in the relative combustion air mass")**

*during the process of ignition and combustion of fluid hydrocarbon fuels including natural gas and propane gas, in combustion mechanisms having a combustion area and at least one burner therein*

**(PAGE 4, third paragraph - "The present combination effect is generally achieved by pre-heating natural gas or propane gas, or other conventional fluid hydrocarbon fuel as it is delivered to the mechanism's burner manifold, while at the same time maintaining or reducing combustion air temperature when operating today's typical residential, commercial and industrial combustion mechanisms and appliances incorporating a burner arrangement located in a combustion zone")**

*for converting said fuel into energy, such as heat, thrust or torque,*  
**(this reference the general description of a combustion process, which converts hydrocarbo fuel into energy, and with such energy being able to convert into the three basic forms, ...heat, thrust or torque.**

Art Unit: 3749

**This conversion process is well understood by anyone skilled in the relevant art)**

*comprising:*

*a) providing fluid hydrocarbon fuel as fuel for said combustion mechanism;*

**(PAGE 4, third paragraph - "The present combination effect is generally achieved by preheating natural gas or propane, or other conventional fluid hydrocarbon fuel, as it is delivered to the mechanism's burner manifold")**

*b) directing said fuel through the fuel supply conduit defining a heat exchanger assembly that extends through a heat transfer zone related to the combustion mechanism;*

**(PAGE 5, first paragraph, - "It comprises a fuel supply conduit defining a heat exchanger assembly located in the mechanism's manifold area")**

**(PAGE 6, first paragraph, - Fuel is routed from the incoming general fuel supply conduit past the combustion mechanism's operating valve through a fuel supply conduit defining a heat exchanger assembly, which is located in a heating zone generated by the mechanism")**

*c) reducing the density of said fuel by heating the fuel as it flows through said heat exchanger assembly to an optimal fuel operating temperature level ranging between 165 degrees Fahrenheit and the fuel's flash point or auto ignition level;*

Art Unit: 3749

**(PAGE 5, first paragraph, - "the heat exchanger configuration is designed to accomodate fuel flow such as to control delivery of fuel to the mechanism's burner orifice at a constant and pre-set desired optimal operating temperature range of between 125 and 900 degrees Fahrenheit .....The contemplated general fuel operating temperature however must range somewhere between above 100 degrees Fahrenheit and a temperature just below the fuel's flash point level.....which could reach as high as 1300 degrees Fahrenheit, depending on the type of fluid hydrocarbon fuel")**

*d) maintaining a constant volume of density reduced fuel to the combustion area of said combustion mechanism;*

**(it is of course understood by anyone skilled in the art, that, in order to operate a combustion mechanism for the purpose of performing the task of converting fuel to energy, the mechanism has to be supplied with a constant volume of fuel, and that in order to operate the mechanism in accordance with this invention, such constant volume of fuel has to have its density reduced constantly rather than intermittently)**

*e) providing combustion air for the combustion process in said combustion mechanism;*

**(PAGE 4, paragraph 3, - "...pre-heating .....fluid hydrocarbon fuel....while at the same time maintaining ar reducing combustion air temperature.....(it is of course obvious to anyone skilled in the art, that combustion air must be combined with fuel to form the oxident mix for the combustion process)....see Figure 1 )**

Art Unit: 3749

*f) directing said combustion air through an air supply conduit defining a heat exchanger assembly that extends through a heat transfer zone of said combustion mechanism;*

**(PAGE 8, Figure 1 reference - "a heat exchanger 7 for the purpose of increasing the density of the combustion air 9 flowing through air inlet duct 8 for mixing with fuel at ignition burner area 4 )**

*g) increasing the density of said combustion air by cooling the combustion air as it flows through said heat exchanger assembly to an optimal air operating temperature level of between plus 50 and minus 25 degrees Fahrenheit;*

**(PAGE 8, Figure 1 reference - "a heat exchanger 7 for the purpose of increasing the density of the combustion air 9 flowing through air inlet duct 8 for mixing with fuel at ignition burner area 4 )**

**(PAGE 1, last paragraph - "To improve power output.....Heavy Vehicles Industry.....is testing a second-stage intercooler for LNG Liquid Natural Gas.... the concept uses LNG fuel to cool the intake air to increase combustion air density.....it is of course understood by anyone skilled in the art, that the LNG in its liquid state could be at a temperature level as low as minus 260 degrees Fahrenheit, and that, when such fuel is used in a heat exchange relationship with air, the air may be cooled to a temperature level much lower than minus 25 degrees or even minus 40 degrees Fahrenheit )**

Art Unit: 3749

*h) maintaining a constant volume of density increased combustion air to the combustion area of said combustion mechanism.*

**(it is of course understood by anyone skilled in the art, that, in order to operate a combustion mechanism for the purpose of performing the task of converting fuel to energy, the mechanism has to be supplied with a constant volume of combustion air, and that in order to operate the mechanism in accordance with this invention, such constant volume of combustion air has to have its density increased constantly rather than intermittently)**

*A device for reducing fuel density.....without effecting specified fuel volume*

**(PAGE 8, Figure 1 reference - "The fuel is then routed.....through heat exchanger 6, designed for the purpose of reducing the density of the fuel...)**

**(PAGE 3, second paragraph - "as both combustion air and fuel flow volumes remain constant")**

*while increasing combustion air density.....without effecting specified air volume*

**(PAGE 8, Figure 1 reference - " heat exchanger 7 for the purpose of increasing the density of the combustion air 9 flowing through air inlet duct 8 for mixing with fuel at ignition in burner area 4)**

**(PAGE 3, second paragraph - "as both combustion air and fuel flow volumes remain constant")**

Art Unit: 3749

*thereby significantly changing the ratio of fuel mass versus combustion air mass, hence oxygen mass*

**(PAGE 3, second paragraph - "This would obviously result in a significant increase in the available oxygen in the relative combustion air mass")**

*during the process of ignition and combustion of fluid hydrocarbon fuels including natural gas and propane gas, in combustion mechanisms having a combustion area and at least one burner therein*

**(PAGE 4, third paragraph - "The present combination effect is generally achieved by pre-heating natural gas or propane gas, or other conventional fluid hydrocarbon fuel as it is delivered to the mechanism's burner manifold, while at the same time maintaining or reducing combustion air temperature when operating today's typical residential, commercial and industrial combustion mechanisms and appliances incorporating a burner arrangement located in a combustion zone")**

*for converting said fuel into energy, such as heat, thrust or torque,*

**(this reference the general description of a combustion process, which converts hydrocarbon fuel into energy, and with such energy being able to convert into the three basic forms, ...heat, thrust or torque. This conversion process is well understood by anyone skilled in the relevant art)**

Art Unit: 3749

*comprising:*

*a) a fuel supply conduit defining a heat exchanger assembly located in a heating zone related to the combustion area of the mechanism*

**(PAGE 5, first paragraph, - "It comprises a fuel supply conduit defining a heat exchanger assembly located in the mechanism's manifold area")**

**(PAGE 6, first paragraph, - Fuel is routed from the incoming general fuel supply conduit past the combustion mechanism's operating valve through a fuel supply conduit defining a heat exchanger assembly, which is located in a heating zone generated by the mechanism")**

*providing the means to maintain a constant supply of fluid hydrocarbon fuel to the combustion area of said mechanism at a preselected optimal temperature level ranging between 165 degrees Fahrenheit and the fuel's flash point or auto ignition level*

**(PAGE 5, first paragraph, - "the heat exchanger configuration is designed to accommodate fuel flow such as to control delivery of fuel to the mechanism's burner orifice at a constant and pre-set desired optimal operating temperature range of between 125 and 900 degrees Fahrenheit .....The contemplated general fuel operating temperature however must range somewhere between above 100 degrees Fahrenheit and a temperature just below the fuel's flash point level.....which could reach as high as 1300 degrees Fahrenheit, depending on the type of fluid hydrocarbon fuel")**

Art Unit: 3749

*b) a combustion air supply conduit defining a heat exchanger assembly located in a cooling zone related to the combustion mechanism,*  
**(PAGE 8, Figure 1 reference - "a heat exchanger 7 for the purpose of increasing the density of the combustion air 9 flowing through air inlet duct 8 for mixing with fuel at ignition burner area 4 )**

*providing the means to maintain a constant volume of combustion air to the combustion area of the combustion mechanism at a preselected optimal operating temperature level ranging between plus 50 and minus 40 degrees Fahrenheit*

**(PAGE 8, Figure 1 reference - "a heat exchanger 7 for the purpose of increasing the density of the combustion air 9 flowing through air inlet duct 8 for mixing with fuel at ignition burner area 4 )**

**(PAGE 1, last paragraph - "To improve power output.....Heavy Vehicles Industry.....is testing a second-stage intercooler for LNG Liquid Natural Gas.... the concept uses LNG fuel to cool the intake air to increase combustion air density.....it is of course understood by anyone skilled in the art, that the LNG in its liquid state could be at a temperature level as low as minus 260 degrees Fahrenheit, and that, when such fuel is used in a heat exchange relationship with air, the air may be cooled to a temperature level much lower than minus 25 degrees or even minus 40 degrees Fahrenheit )**

In addition, Examiner should also refer to the abstract of the invention, which was not objected to by the Examiner and must therefore be assumed to be proper, and which, according to MPEP 608.01(b) states the following:

Art Unit: 3749

*"The purpose of the abstract is to enable the Patent Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure;"*

Under "Content" it cites the following:

*"A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains;"*

Applicant is of the opinion to be in complete compliance with such practice, and Examiner's acceptance of the abstract as submitted provides verification.

The Abstract reads as follows:

*"A method and device for changing the rate of density between fluid hydrocarbon fuels and combustion air prior to ignition and combustion in residential, commercial and industrial combustion mechanisms, by extracting heat from the mechanism's combustion zone or flue area to reduce the density of the fuel prior to delivery to the mechanism burner at a constant, pre-set operating temperature of between 100 degrees Fahrenheit and the fuel's flash point temperature, while at the same time providing means to control combustion air temperature to a level such as to increase air density and significantly changing the mass ratio of fuel mass versus combustion air mass, hence oxygen mass, without increasing combustion air volume or fuel volume, thereby improving combustion efficiency, heat transfer efficiency and reduction in harmful stack emissions."*

The Abstract describes the invention properly and completely when it details:

- 1) changing of density of fuel through heating, thereby reducing density;
- 2) changing of density of combustion air through cooling, thereby increasing density;

Art Unit: 3749

- 3) maintaining the specified fuel and air volumes, critical specification;
- 4) increasing the oxygen mass ratio in the fuel / air oxidation mixture;
- 5) raising fuel temperature to between 100 degrees Fahrenheit and the fuel flash point temperature; (because of combustion danger, a critical temperature range is specified;
- 6) reducing combustion air temperature such as to increase air density sufficiently to cause a significant increase in the oxygen mass ratio, (no combustion danger at any temperature range and no critical temperature range is referenced)
- 7) providing fluid hydrocarbon fuel for the operation of the combustion mechanism;

When detailing the Abstract as herebefore, it is obvious that, on its own merits, the Abstract is definite and particularly points out and distinctly describes the subject matter which Applicant regards as the invention, and if the Examiner finds that Applicant's Claims do not distinctly claim the subject matter, the Examiner should make a comparison between Claims and the Abstract, in which case the Examiner might find it to be incorrect when rejecting Applicant's Claims

Dependent Claims 28 to 38, which are dependent on Claim 27, and dependent Claims 40 to 48, which are dependent on Claim 39, are all Claims which obviously directly relate to such independent Claims, and which are relied upon to narrow and further limit of the independent Claim, or more specifically and precisely define the scope of the independent Claims in accordance with prescribed Office practice. Therefore, such dependent Claims are construed to include all the limitations of the Claim incorporated by reference into the dependent Claim, as Applicant already previously cited on page 46, 47 and 48 of this response. Please refer to MPEP 608.01(i) and 37 CFR 1.75. Claims.

Art Unit: 3749

Based on the by Applicant before stated arguments and verifications, Applicant is of the opinion that, unless the Examiner is able to overcome all the reasoning presented by Applicant, the Examiner has without doubt failed to demonstrate that the deficiencies cited, such as **Drawings, Claim Rejection - 35USC 112 first and second paragraph, Double Patenting, Claim Rejections - 35USC 102, Claim Rejections - 35 USC 103** and any **Necessity to Make This Action Final**, are reasonable or are within the cited rules, regulations or Office practice.

Applicant depends on the Office rule and relies not only on the description and on the drawings as filed, but also on the original Claims, as their content justifies it. Applicant therefore respectfully requests the Examiner to move this Application to allowance. Should any minor adjustments or amendments be required, Applicant will under Examiner's guidance provide any such reasonably required adjustment forthwith.

Signed this 18th day of March, 2005,



William H. Velke

Applicant

Attachment: Amended Claims

Amended Description

ETV Confidential Report

# ETV CONFIDENTIAL REPORT ON FUEL PREHEATING INVENTION

06/28/00 WED 13:08 FAX 9053364519

ETV CANADA



## Heat Input Increase

Improved combustion efficiency is an improvement in the conversion of the fuel into Carbon Dioxide ( $\text{CO}_2$ ) and Water ( $\text{H}_2\text{O}$ ). This is evidenced by a reduction in the volume of Carbon Monoxide (CO) emissions.

Volume of CO with Tylon Activated =  $2.84 \text{ in}^3 = 0.0465394 \text{ dm}^3 = 0.00208 \text{ mol}$

Volume of CO with Tylon Bypassed =  $4.61 \text{ in}^3 = 0.0755445 \text{ dm}^3 = 0.00337 \text{ mol}$

The Enthalpy of formation of Carbon Dioxide and Carbon Monoxide are:

$\Delta H_f \text{ CO} = -110.5 \text{ kJ/mol}$

$\Delta H_f \text{ CO}_2 = -393.5 \text{ kJ/mol}$

Difference between CO and  $\text{CO}_2$  energy release =  $283 \text{ kJ/mol}$

Difference in CO emitted =  $0.00129 \text{ mol}$

Therefore the additional energy released due to improved combustion efficiency, when the Tylon Fuel Saver is Activated

$$= 0.00129 \times 283 = 0.36507 \text{ kJ} = 0.346 \text{ Btu}$$

The furnace used  $3.174 \text{ ft}^3$  of Propane in 10 minutes when the Tylon Fuel Saver was activated. Therefore in 5 minutes  $1.587 \text{ ft}^3$  was consumed.

The calorific value of the Propane used was  $2500 \text{ Btu/ft}^3$ .

Therefore in 5 minutes  $3967.5 \text{ Btu}$  were input to the furnace as chemical energy in the fuel.

CGRI has in the past calculated the increased energy input due to the higher temperature of the fuel when the Tylon Fuel Saver is activated. This equates to  $75.4 \text{ kJ/m}^3$  or  $2.024 \text{ Btu/ft}^3$ , which in 5 minutes was  $3.212 \text{ Btu}$ .

It can thus be said that the increase in energy input to the furnace due to fuel heating and an improvement in combustion efficiency was  $3.558 \text{ Btu}$ .

That is, an increased energy input of  $0.09 \%$  (This analysis did not include a possible improvement to the low level of propane slippage that can occur on burner ignition and extinction, as it was not measured. However, it would not be expected to add a significant amount to the increase in energy input).

The above increase in energy input is far outweighed by the measured decrease in fuel volume (2.3%) to the furnace due to the change in thermophysical properties of the fuel and temperature effects on the combustion system (orifice, burners, etc).

## Furnace Efficiency

CGR I has in the past calculated a few snapshot efficiencies from the data provided by ITS, see below.

### Tylon Flue Loss Efficiency

#### For Cycle #2

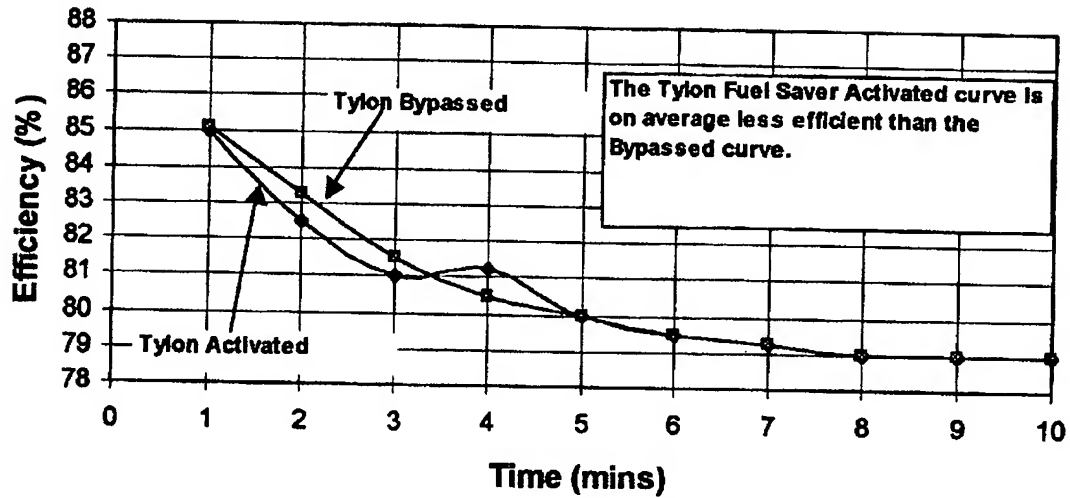
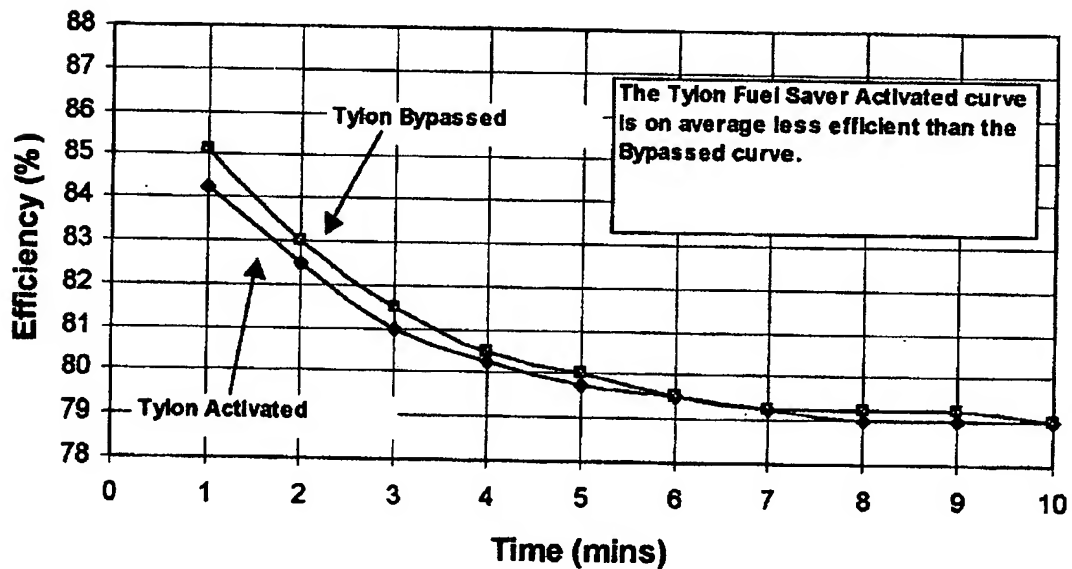
Activated Time	Flue CO2 %	Flue Temperature after Tylon (F)	Combustion Air Temperature (F)	Delta T (F)	Flue Loss %	Efficiency %
0						
1	6.6	212	58.8	153.1	15	85
2	6.3	275.6	60	215.6	17.5	82.5
3	6.26	318.1	59.7	258.4	19	81
4	7.34	342.8	58.5	284.3	18.75	81.25
5	6.44	359	60.8	298.2	20	80
6	6.4	369.2	59.1	310.1	20.5	79.5
7	6.42	374.4	59.8	314.6	20.75	79.25
8	6.36	378	59.5	318.5	21	79
9	6.44	379.3	59.9	319.4	21	79
10	6.4	380.4	60.1	320.3	21	79

Bypassed Time	Flue CO2 %	Flue Temperature after Tylon (F)	Combustion Air Temperature (F)	Delta T (F)	Flue Loss %	Efficiency %
0						
1	5.99	168.8	58.4	110.4	14.9	85.1
2	6.33	253.2	58.6	194.6	18.75	83.25
3	6.36	304.4	59.6	244.4	18.5	81.5
4	6.46	337.4	60	277.4	19.5	80.5
5	6.49	358.2	60.7	297.5	20	80
6	6.54	369.8	60.4	309.4	20.5	79.5
7	6.51	377.6	60.8	317	20.75	79.25
8	6.54	382.2	60.4	321.8	21	79
9	6.54	385.1	61.4	323.7	21	79
10	6.56	387	60.7	326.3	21	79

#### For Cycle #8

Activated Time	Flue CO2 %	Flue Temperature after Tylon (F)	Combustion Air Temperature (F)	Delta T (F)	Flue Loss %	Efficiency %
0						
1	5.86	214.2	58.3	155.9	15.75	84.25
2	6.26	277.8	59.3	218.5	17.5	82.5
3	6.36	317.7	60.6	257.1	19	81
4	6.34	343.2	61.2	282	19.75	80.25
5	6.36	359.1	61.3	297.8	20.25	79.75
6	6.41	368.1	61.3	306.8	20.6	79.5
7	6.31	373.1	61.7	311.4	20.75	79.25
8	6.31	376.7	60.5	316.2	21	79
9	6.31	379.2	61.1	318.1	21	79
10	6.33	380.7	61.5	319.2	21	79

Bypassed Time	Flue CO2 %	Flue Temperature after Tylon (F)	Combustion Air Temperature (F)	Delta T (F)	Flue Loss %	Efficiency %
0						
1	5.96	168.1	59.5	108.6	14.9	85.1
2	6.19	253.6	59.8	194	17	83
3	6.32	305.6	59.9	245.7	18.5	81.5
4	6.45	338.1	60.2	277.9	19.5	80.5
5	6.47	357.8	60.5	297.3	20	80
6	6.48	370.1	60.8	309.3	20.5	79.5
7	6.54	377.4	60.3	317.1	20.75	79.25
8	6.53	382.6	61.2	321.4	20.75	79.25
9	6.54	385.1	60.7	324.4	20.75	79.25
10	6.56	387.3	61.1	326.2	21	79

**Tylon Fuel Saver (Furnace Cycle 2)****Tylon Fuel Saver (Furnace Cycle 6)**

These overall efficiency figures were calculated using the "flue loss method". This method determines the sensible and latent energy lost in the combustion products going up the flue. The figures are determined by temperature differences between what goes in and what comes out and also from the flue Carbon Dioxide concentration, which gives an indication of the excess air level in the flue.

The Efficiency determined using this method includes both the energy output in the load air and the energy lost from the furnace to its surroundings.

The energy lost from the furnace to its surroundings (casing or jacket losses) was not measured, however they are generally not very high and for a furnace would contribute to the heating of a house. It is CGRI's opinion that the casing losses would not have changed significantly when the Tylon Fuel Saver was activated as compared to its being bypassed, during the ITS testing.

### **In Conclusion**

There was a net decrease in the energy supplied to the furnace and an increase (or no change) in the energy being lost up the flue, so unless there was a significant change in the casing losses (which cannot be determined) there is no explanation for the dramatic increase in energy output in the load air being claimed.

CGRI is unwilling to support any claim that implies that the first law of thermodynamics is being broken.